

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WARREN L. HARRIS,)
)
Petitioner,)
)
v.) Civ. A. No. 98-682-GMS
)
ROBERT E. SNYDER,)
Warden,)
)
Respondent.)

O R D E R

At Wilmington this 5th day of Feb.;

IT IS ORDERED that:

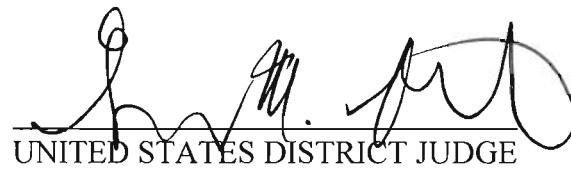
Pro se petitioner Warren L. Harris' "motion for appealability," which the court construes to be either a "motion for certificate of appealability," a "motion to subpoena records," or a "motion for reconsideration" regarding the court's 2002 memorandum and order dismissing Harris' § 2254 petition, is DENIED. (D.I. 23)

To the extent the Harris' pending document is a "motion for certificate of appealability," the court denies the motion for the same reasons explained in its memorandum and order dated January 11, 2002. *See* (D.I. 19; D.I. 20)

To the extent Harris is asking to subpoena records in order to challenge his 1992 conviction, the court denies the request because the court already denied Harris' habeas petition in 2002 and closed the case. *Id.*

To the extent Harris' pending document is a motion for reconsideration, the court

concludes that the motion constitutes a second or successive § 2254 petition because Harris is challenging the same 1992 conviction that he challenged in his prior § 2254 petition. *See Pridgen v. Shannon*, 380 F.3d 721, 727 (3d Cir. 2004). The record is clear that Harris did not obtain an order from the Third Circuit Court of Appeals authorizing his filing of another § 2254 petition. *See* 28 U.S.C. § 2244(b)(3). Accordingly, pursuant to 28 U.S.C. §§ 2244(a), the court denies Harris' motion for lack of jurisdiction. *See Robinson v. Johnson*, 313 F.3d 128, 139-40 (3d Cir. 2002) (“When a second or successive habeas petition is erroneously filed in a district court without the permission of a court of appeals, the district court’s only option is to dismiss the petition or transfer it to the court of appeals”).



UNITED STATES DISTRICT JUDGE

